

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **CORNERSTONE INDUSTRIES CORP.**, who may be served with process by serving its registered agent, **DANA TEW** at **5315 WHITTEN OAKS, FRIENDSWOOD, TEXAS 77546** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 20th day of June, 2019, by Attorney at Law, OSCAR MENDEZ, JR., 109 N OREGON, 12TH FLOOR, EL PASO, TEXAS 79901 in this case numbered **2019DCV2336** on the docket of said court, and styled:

GERARDO GARCIA
VS.
CORNERSTONE INDUSTRIES CORP.

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition, Plaintiff's First Set of Interrogatories to Defendant, First Request for Production of Documents and Things to Defendant, and Jury Request** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 27th day of June, 2019.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas

By Mercedes Olivas Deputy
Mercedes Olivas

FILED
NORMA FAVELA BARCELEAU
DISTRICT CLERK
2019 JUN 27 PM 12:48
EL PASO COUNTY, TEXAS
BY Mercedes Olivas
DEPUTY

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

RETURN

Came on hand on _____ day of _____, 20____, at _____ o'clock ____M., and executed in _____ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition, Plaintiff's First Set of Interrogatories to Defendant, First Request for Production of Documents and Things to Defendant, and Jury Request**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, _____

The diligence used in finding said defendant, being _____

And the cause of failure to execute this process is: _____

And the information received as to the whereabouts of the said defendant, being _____

FEES—SERVING _____ copy _____ \$ _____ Sheriff

_____ County, Texas
Total _____ \$ _____ by _____ Deputy

CERTIFICATE OF DELIVERY

I do hereby certify that I delivered to _____, on the _____ day of _____, 20____, at _____ o'clock ____m. this copy of this instrument.

_____, Sheriff/Agent
_____, County, Texas
By _____, Deputy/Agent

SUBSCRIBED AND SWORN TO BEFORE ME ON THE _____ DAY OF _____, 20____.

(SEAL)

NOTARY PUBLIC, STATE OF TEXAS



THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **CORNERSTONE INDUSTRIES CORP.**, who may be served with process **BY SERVING THE SECRETARY OF STATE, AUSTIN, TEXAS, 1019 BRAZOS, TRAVIS COUNTY, TEXAS, 78701**, who shall then forward a copy of this petition upon **CORNERSTONE INDUSTRIES CORP.** by serving its President and or Vice President, or any authorized officer or agent therein at **8781 MOTORSPORTS WAY, BROWNSBURG, IN 46112** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's First Amended Petition Dated November 27, 2019** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 2nd day of December, 2019, by Attorney at Law, **OSCAR MENDEZ, JR.**, 109 N. OREGON, 12TH FLOOR, EL PASO, TX 79901 in this case numbered **2019DCV2336** on the docket of said court, and styled:

GERARDO GARCIA
VS.
CORNERSTONE INDUSTRIES CORP.

FILED
NORMA FAVELA BARCELEAU
DISTRICT CLERK
2019 DEC -6 PM 12:00
BY
M. Olivas
DEPUTY

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's First Amended Petition Dated November 27, 2019, First Request for Production of Documents and Things to Defendant, Plaintiff's First Set of Interrogatories to Defendant, and Jury Request** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 6th day of December, 2019.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas

Mercedes Olivas, Deputy

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

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Came on hand on _____ day of _____, 20____, at _____ o'clock ____M., and executed in _____ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's First Amended Petition Dated November 27, 2019, First Request for Production of Documents and Things to Defendant, Plaintiff's First Set of Interrogatories to Defendant, and Jury Request**, at the following times and places, to-wit:

NAME	DATE			TIME		Place, and Course and Distance From Court House
	MONTH	DAY	YEAR	Hour	Min. ____M.	

And not executed as to the defendant, _____

The diligence used in finding said defendant, being _____

And the cause of failure to execute this process is: _____

And the information received as to the whereabouts of the said defendant, being _____

FEES—SERVING ____ copy ____ \$ _____ Sheriff

_____ County, Texas
Total _____ \$ _____ by _____ Deputy

CERTIFICATE OF DELIVERY

I do hereby certify that I delivered to _____, on the _____ day of _____, 20____, at _____ o'clock ____m. this copy of this instrument.

_____, Sheriff/Agent
_____, County, Texas
By _____, Deputy/Agent

SUBSCRIBED AND SWORN TO BEFORE ME ON THE _____ DAY OF _____, 20____.

(SEAL)

NOTARY PUBLIC, STATE OF TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV _____

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES GERARDO GARCIA (hereinafter called "Plaintiff"), complaining of CORNERSTONE INDUSTRIES CORP. (hereinafter called "Defendant CORNERSTONE") for a cause of action would respectfully show the Court as follows:

**I.
DISCOVERY LEVEL**

This suit is brought under discovery Level II (two).

**II.
PARTIES**

Plaintiff is a resident of El Paso County, Texas

Defendant CORNERSTONE INDUSTRIES CORP., is a Texas Corporation, doing business in El Paso County, Texas and may be served with process by serving its registered agent DANA TEW, 5315 Whittien Oaks, Friendswood, Texas 77546 or where ever such agent may be found.

**III.
JURISDICTION AND VENUE**

This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in El Paso County, Texas.

**IV.
AGENCY**

Whenever in this petition it is alleged that the Defendant did any act or thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the full authorization or ratification of or by the Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.

**V.
THEORY OF RECOVERY**

This case is founded upon and based upon the following legal theories of recovery: violation of Plaintiffs' rights under Sabine Pilot Service, Inc. v. Hauck, 687 S.W.2d 733 (Tex. 1985), as hereinafter more particularly alleged.

**VI.
FACTS**

Defendant terminated/constructively discharged Plaintiff on or about April 26, 2019. On or about April 10, 2019 after a particular job in Bakersfield, California Plaintiff was asked to transport some co-workers from California to Indiana in an unmarked company vehicle. Plaintiff is aware that Defendant CORNERSTONE has undocumented employees working for Defendant. Plaintiff explained to his supervisor JUAN GOMEZ that he was uncomfortable having to transport co-workers due to Border Patrol road blocks and check points. Plaintiff feared if he

were to be pulled over and the co-workers not have the proper documentation to be working in the United States that Plaintiff would be charged with human trafficking and smuggling/harboring of persons. Plaintiff was terminated/constructive discharged for refusing to illegally transport undocumented workers for Defendant CORNERSTONE. Said acts would have violated Title 8 of the United States Code § 1324, an offense punishable of imprisonment not more than ten (10) years for each violation. Plaintiff was terminated for refusing to perform these illegal acts.

VII.

Plaintiff was an at-will employee. Plaintiff refused to perform illegal acts for Defendant. Plaintiff's refusal to commit these illegal acts was the sole reason for Plaintiff's termination/constructive discharge.

VIII. DAMAGES

By reason of the acts and conduct, as herein alleged, of the Defendants your Plaintiff has been damaged as follows:

1. All actual damages including mental anguish in the past and future;
2. Loss of earnings in the past;
3. Loss of earnings in the future;
4. Exemplary Damages;
5. Attorney's fees
6. Reinstatement.

IX.

Plaintiff would show that Defendant acted with malice. Specifically, Defendant had a specific intent to cause substantial injury to the Plaintiff when it terminated Plaintiff. Defendant's actions in discharging Plaintiff from its employ, was in willful disregard of the rights of Plaintiff for which Plaintiff is entitled to recover punitive damages. Pursuant to TRCV

47. Plaintiff requests monetary relief over \$1,000,000.00 and a demand for judgment for all the other relief to which the party deems himself entitled.

**X.
REQUESTS FOR DISCLOSURE**

Pursuant to Rule 194, Defendant are requested to disclose within the time period set forth in Tex. R. Civ. P. 194.3 the information or material described in Rule 194.2(a) - 194.2(l).

XI.

Plaintiff respectfully requests trial by jury of the issues in this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant for all relief requested, jointly and severally, for costs, pre-judgment and post judgment interest, punitive damages, reinstatement, and for such other relief, general and special, at law or in equity, to which Plaintiff is entitled.

Respectfully submitted,

SCHERR & LEGATE, PLLC.
Attorneys for Plaintiff
109 North Oregon, 12th Floor
El Paso, Texas 79901
(915) 544-0100
(915) 532-1759 (Facsimile)
omendez@scherrlegate.com

/s/Oscar Mendez Jr.
OSCAR MENDEZ JR.
State Bar No. 24058473

IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV2336

**FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS TO DEFENDANT**

TO: CORNERSTONE INDUSTRIES CORP., by and through their attorney of record.

Pursuant to the Texas Rules of Civil Procedure, you are hereby requested to produce for inspection, copying or photographing, the following documents or tangible things, including: "papers, books, accounts, drawings, graphs, charts, photographs, electronic or video tape recordings, and any other data, compilations...and any other tangible things which constitute or contain matters relevant to the subject matter herein." Rule 166b at the following location:

SCHERR & LEGATE, PLLC.

109 N. Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100

at the following time:

10:00 a.m.

FIFTY ONE (51) DAYS AFTER SERVICE:

All documents and things produced pursuant to this REQUEST shall be in original and unaltered form except, where designated in the specific REQUEST, photocopies may be substituted.

Further, all documents and tangible things must be produced "as they are kept in the usual course of business" and shall be labeled "to correspond with the categories in the request," as provided in Texas Rule of Civil Procedure 196.3(c).

Further you are hereby required to respond and supplement this Request as mandated by Rule 193. If you fail to respond accordingly to this REQUEST or fail to supplement your response to this REQUEST, Plaintiffs will seek sanctions pursuant to Rule 215.

Your failure to produce any item requested herein will be subject to a Motion to Strike or Suppress any such item not produced which you attempt to use at trial either as an exhibit or as evidence.

Further, compliance with Rule 196 is expected and requested and in that regard, you shall serve a written response which shall state, with respect to each item or category of items, that inspection or other requested action will be permitted as requested, and that you shall thereafter comply with the Request, except only to the extent that you made objections in writing as to particular items, or categories of items, stating specific reasons why discovery should not be allowed.

Further you are requested to organize the documents requested and label them to correspond with the categories in the request.

Pursuant to Tex. R. Civ. P. 196.4 you are requested to produce and reduce to printed form all information that exists in electronic or magnetic data.

You are hereby put on notice that pursuant to Rule 193.2(e), an objection that is not made within the time required, or that is **obscured by numerous unfounded objections**, is waived unless the court excuses the waiver for good cause shown.

You are hereby put on notice to produce to Plaintiff pursuant to Tex. R. Evidence 609 all evidence of any listed witness.

Respectfully submitted,

SCHERR & LEGATE, PLLC.

Attorneys for Plaintiff

109 North Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100

(915) 532-1759 (Facsimile)

omendez@scherrlegate.com

/s/Oscar Mendez Jr.

OSCAR MENDEZ JR.

State Bar No. 24058473

ITEMS TO BE PRODUCED

1. Any and all documents which support, evidence, relate or otherwise pertain to any and all personnel policies of Defendant in effect from January 1, 2015, to the present, including but not limited to
 - (a) Employee discipline policies, including but not limited to, counseling, written warnings, suspension, demotion, and termination policies.
 - (b) Internal complaint or grievance procedures.
2. Any and all documents relating to or evidencing any investigation by Defendant into Plaintiff's internal complaint of refusing to commit an illegal act for Defendant, including but not limited to:
 - (a) Written statements of witnesses.
 - (b) Notes of interviews with witnesses.
 - (c) Tape/electronic recordings of any and all oral statements and/or interviews of witnesses.
 - (d) Transcriptions of any tape/electronic recordings of any and all oral statements and/or interviews of witnesses.
 - (e) Reports regarding the results of any and all investigations.
 - (f) Correspondence received from or sent to Plaintiff.
 - (g) Correspondence received from or sent to Defendant.
 - (h) Correspondence received from or sent to any person other than Defendant's counsel.
 - (i) Documents relating to or evidencing discussions between Plaintiff and Defendant.
 - (j) Documents relating to or evidencing discussions between Defendant and any person other than Defendant's counsel.
 - (k) Documents received from or sent to any person other than Defendant's counsel.

3. Any and all documents which support, evidence, relate to, or otherwise reflect any action taken by Defendant in response to Plaintiff's internal complaint to Defendant.
4. The complete personnel file of Plaintiff, including but not limited to, any documents, records, memoranda, notes, or computer printouts which were part of Plaintiff's personnel file at any time.
5. Any and all documents not included in Plaintiff's personnel file which support, evidence, relate or otherwise pertain to Plaintiff's employment with Defendant, including, but not limited to, documents relating to or reflecting job performance, awards to Plaintiff, or discipline of Plaintiff.
8. Any deposition testimony in Defendants possession given by Plaintiff.
9. Any and all documents submitted to and/or received from the Department of Labor which concern or relate in any way to Plaintiff.
10. Any and all documents submitted to and/or received from a state agency which concern or relate in any way to Plaintiff.
11. Any and all documents submitted to and/or received from the [City] Police Department which concern or relate in any way to its investigation concerning Plaintiff's claims against Defendants.
12. Any and all employee handbooks which you gave to Plaintiff during his employment with you.
13. Any and all documents which support or evidence compensation paid to Plaintiff during his employment with you, including but not limited to, salary, bonuses, and commissions.
14. Any and all documents which support or evidence employee benefits which you provided to Plaintiff during his employment with you, including but no limited to, a description of plan benefits and/or plan handbooks, or pamphlets for profit-sharing plans, medical and dental insurance, retirement benefits, and life insurance.
16. Any and all documents which reflect or set forth Plaintiff's job duties and responsibilities during his employment with you.
17. The Code of Ethics for CORNERSTONE INDUSTRIES CORP..
18. Any and all citizen complaints filed by private citizens against Defendants.
19. All emails from Juan Gomez regarding Plaintiff.
20. All Curriculum and course of studies offered for the past five years.

21. Any and all list of employee's for the past five years and their position.
22. Any and all employee personal files for the past five years.

IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV2336

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT

TO: CORNERSTONE INDUSTRIES CORP., by and through their attorney of record.

You are hereby served with Interrogatories pursuant to the Texas Rule of Civil Procedure 197 to be answered in writing under oath. Your answers are to be preceded by the Interrogatory to which the answer pertains. The answers are to be signed and verified by the persons making them. You are to respond to these interrogatories **FIFTY ONE (51) DAYS** after service. If you object or assert a privilege in answering these Interrogatories, any Interrogatory or part thereof, you shall serve your objection upon Plaintiffs in writing within **FIFTY ONE (51) DAYS** after service. You are hereby advised that an evasive or incomplete answer is to be treated as a failure to answer. You are expected to supplement your answers in accordance with the Texas Rules of Civil Procedure. If you fail to answer these Interrogatories as set forth above and in accordance with the Texas Rules of Civil Procedure, then Plaintiffs will move that sanctions be imposed against you pursuant to the Texas Rules of Civil Procedure. Pursuant to Tex. R. Civ. P. 196.4 you are requested to produce any of the above information that exists in electronic or magnetic data.

You are hereby put on notice that pursuant to Rule 193.2(e), an objection that is not made

within the time required, or that is **obscured by numerous unfounded objections**, is waived unless the court excuses the waiver for good cause shown.

Respectfully submitted,

SCHERR & LEGATE, PLLC.

Attorneys for Plaintiff

109 North Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100

(915) 532-1759 (Facsimile)

omendez@scherrlegate.com

/s/Oscar Mendez Jr.

OSCAR MENDEZ JR.

State Bar No. 24058473

INTERROGATORIES

1. Identify any and all documents which describe, support, or otherwise reflect the facts known to each person having knowledge of relevant facts listed in response to Plaintiff's Request for Disclosure.
2. Identify any and all persons who participated, in any way, in any investigation conducted by Defendant regarding Plaintiff's refusal to commit an illegal crime on behalf of the Defendant's.
3. Identify any and all persons employed by Defendant at its administrative offices during the period of January 1, 2015, to present.
4. Identify any and all persons who at any time from January 1, 2015 to the present are or have been supervised by JUAN GOMEZ.
5. Identify any and all persons who were responsible for overseeing Plaintiff's performance during his employment with you.
6. Identify any and all persons who were and/or are responsible for overseeing the performance of Plaintiff during his employment with you.
7. Identify any and all persons (other than Plaintiff) who, from January 1, 2015, to the present, have filed a lawsuit, complaint, administrative charge, or claims against Defendant.
8. State the name, address, and job title or capacity of each person who prepared or assisted in the preparation of the responses to these Interrogatories.
9. State the name, address, phone number and qualifications of each expert, who has been retained or specially employed by you in anticipation of litigation and who is not expected to be called as a witness for trial upon whom your testifying expert or any witness reviewed or relied upon, the mental impressions and opinions held by the expert and the facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of the mental impressions and opinions held by the expert.
10. State the reason for Plaintiff's termination.

IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV2336

JURY REQUEST

On this the 21st day of December, A.D. 2019, the Plaintiff having demanded a jury, it is hereby ordered that the above styled and numbered cause be placed upon the jury docket on payment of the jury fee herein.

Respectfully submitted,

SCHERR & LEGATE, PLLC

Attorneys for Plaintiff

109 N. Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100 voice

(915) 532-1759 facsimile

omendez@scherrlegate.com

/s/ Oscar Mendez Jr.

OSCAR MENDEZ JR.

State Bar No. 24058473

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: CORNERSTONE INDUSTRIES CORP., who may be served with process by serving its registered agent, **DANA TEW** at **5315 WHITTEN OAKS, FRIENDSWOOD, TEXAS 77546** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 20th day of June, 2019, by Attorney at Law, **OSCAR MENDEZ, JR.**, 109 N OREGON, 12TH FLOOR, EL PASO, TEXAS 79901 in this case numbered **2019DCV2336** on the docket of said court, and styled:

GERARDO GARCIA
VS.
CORNERSTONE INDUSTRIES CORP.

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition, Plaintiff's First Set of Interrogatories to Defendant, First Request for Production of Documents and Things to Defendant, and Jury Request** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 27th day of June, 2019.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas

By *M. Olivas* Deputy
Mercedes Olivas

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

CTH: 6/28/19 @ 10:57 AM

IN THE COUNTY COURT AT LAW, NO. 6
COUNTY OF EL PASO, STATE OF TEXAS

CAUSE NO. 2019DCV2336

GERARDO GARCIA

vs

CORNERSTONE INDUSTRIES CORP

AFFIDAVIT

Before me, the undersigned authority, did personally appear Stacey L. Tagen, and having been first duly sworn by me did testify and say

"My name is Stacey L. Tagen. On 06/28/19 @ 10:57 a.m., I received a Citation and Plaintiff's Original Petition in the above styled and numbered cause of action for service upon CORNERSTONE INDUSTRIES CORP by delivering to its registered agent, DANA TEW, at the registered office located at, 5315 WHITTEN OAKS, FRIENDSWOOD, TX 77546.

"I have attempted to deliver the citation and petition to the registered agent at the above listed registered office on the following dates and times:

"Attempted to deliver on 07/02/19 @ 03:30 p.m. Current resident has never heard of the defendant. Registered agent not at registered office listed above.

"I recommend service upon the Secretary of State pursuant to TX Bus. Org Code Sec 5.251 and 5.252, or other pertinent statute

"I am over the age of 18; and I am not party to nor interested in the outcome of the above styled and numbered suit.


By: Stacey L. Tagen

PSC NO: 8963

Expiration Date: 7/31/2020

ASSURED CIVIL PROCESS AGENCY

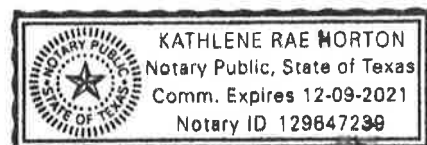
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS

VERIFICATION

Before me, a notary public, on this day personally appeared the above named person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements and facts therein contained are within his/her personal knowledge to be true and correct. Given under my hand and seal of office on this the 9th day of July, 2019.


Notary Public



IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY, TEXAS

GERARDO GARCIA

§

Vs.

§

CAUSE NO. 2019DCV2336

CORNERSTONE INDUSTRIES CORP.

§


ORDER SETTING HEARING

It is hereby order that the Court has set a **STATUS/SCHEDULING CONFERENCE** in the above-entitled Cause number.

December 13, 2019, AT 11:00 AM, in the County Court at Law Number Six, Located at 500 E. San Antonio Rm. 1106, El Paso, Texas 79901.

- **FAILURE TO APPEAR SHALL RESULT IN A JUDGMENT OR DISMISSAL FOR WANT OF PROSECUTION ON YOUR CASE.**
- **LOCAL COUNSEL APPEARING ON THIS CASE MUST FILE AN ENTRY OF APPEARANCE FAILURE TO DO SO SHALL RESULT IN CANCELLATION OF HEARING.**
- **IF YOU REQUIRE AN INTERPRETER YOU ARE RESPONSIBLE IN CONTRACTING A FREELANCE INTERPRETER.**

Signed on this the 9th day of September, 2019



M. SUE KURITA, JUDGE
COUNTY COURT AT LAW NUMBER SIX

OSCAR MENDEZ, JR.

OMENDEZ@SCHERRLEGATE.COM

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: CORNERSTONE INDUSTRIES CORP., who may be served with process by serving its registered agent, **DANA TEW** at **5315 WHITTEN OAKS, FRIENDSWOOD, TEXAS 77546** or wherever he/she may be found.

Greetings:

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Said Plaintiff's Petition was filed in said court on this the 20th day of June, 2019, by Attorney at Law, **OSCAR MENDEZ, JR.**, 109 N OREGON, 12TH FLOOR, EL PASO, TEXAS 79901 in this case numbered **2019DCV2336** on the docket of said court, and styled:

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The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 27th day of June, 2019.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas

By *Mercedes Olivas* Deputy
Mercedes Olivas

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

IN THE COUNTY COURT AT LAW, NO. 6
EL PASO COUNTY, TEXAS

CAUSE NO. 2019DCV2336

GERARDO GARCIA
VS
CORNERSTONE INDUSTRIES CORP

RETURN

Came to my hand: 09/19/2019, at 08:00 o'clock A.M., the following specified documents:

- Citation
- Plaintiff's Original Petition
- Requests for Disclosure
- Plaintiff's First Set of Interrogatories
- First Request for Production of Documents and Things to Defendant
- Jury Demand

and executed by me on: 9/19/2019, at 4:30 o'clock P.M., at 1019 Brazos Street, Austin, Travis County, Texas, 78701, by delivering to CORNERSTONE INDUSTRIES CORP, by delivering to SECRETARY OF STATE OF TEXAS, by delivering to citations clerk having charge of Corporation Department/Statutory Documents Section of Secretary of State of Texas, WEB JEROME, in person, true copies in duplicate of the above specified documents, together with Statutory Fee to the Secretary of State in the amount of \$55, having first endorsed on such copies the date of delivery.

I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I declare under penalty of perjury that the foregoing is true and correct.

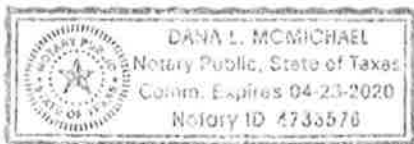
Kelly Murski

Authorized Person KELLY MURSKI: PSC 5912
Expiration Date: 10/31/2020
ASSURED CIVIL PROCESS AGENCY
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements and facts therein contained are within his/her personal knowledge and experience to be true and correct. Given under my hand and seal of office on this 19th day of SEPT., 2019.



Dana L. McMichael
Notary Public

IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV2336

NOTICE OF PATERNITY LEAVE

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Plaintiff's Counsel, OSCAR MENDEZ JR., and files this his Notice of Paternity Leave and shows the Court as follows:

I.

Oscar Mendez Jr. hereby notifies this Honorable Court and Opposing Counsel that he will be on paternity leave starting March 2, 2020 until April 20, 2020. Plaintiff's counsel respectfully requests that no hearings be set during his paternity leave.

Respectfully submitted,

SCHERR LEGATE, PLLC.

Attorneys for Plaintiff

109 North Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100

(915) 532-1759 (Facsimile)

omendez@scherrlegate.com

/s/Oscar Mendez Jr.

OSCAR MENDEZ JR.

State Bar No. 24058473

IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY TEXAS

GERARDO GARCIA,

Plaintiff,

vs.

CORNERSTONE INDUSTRIES CORP.

Defendant.

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Cause No. 2019-DCV2336

PLAINTIFF'S FIRST AMENDED PETITION DATED NOVEMBER 27, 2019

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES GERARDO GARCIA (hereinafter called "Plaintiff"), complaining of CORNERSTONE INDUSTRIES CORP. (hereinafter called "Defendant CORNERSTONE") for a cause of action would respectfully show the Court as follows:

**I.
DISCOVERY LEVEL**

This suit is brought under discovery Level II (two).

**II.
PARTIES**

Plaintiff is a resident of El Paso County, Texas

Defendant CORNERSTONE INDUSTRIES CORP. is believed to be a Texas Corporation doing business in El Paso County, Texas. As this lawsuit arises from Defendant's business in Texas, and it neither designated nor maintains a registered agent for service of process in Texas, it is deemed to have appointed the Secretary of State as its agent.

Service of process may be had in accordance with the Texas Long Arm Statute by serving the Secretary of State, Austin, Texas, 1019 Brazos, Travis County, Texas 78701, who

shall then forward a copy of this petition upon CORNERSTONE INDUSTRIES CORP. by serving its President and or Vice President, or any authorized officer or agent therein at 8781 Motorsports Way, Brownsburg, IN 46112 or where ever may be found.

III. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in El Paso County, Texas.

IV. AGENCY

Whenever in this petition it is alleged that the Defendant did any act or thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the full authorization or ratification of or by the Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.

V. THEORY OF RECOVERY

This case is founded upon and based upon the following legal theories of recovery: violation of Plaintiffs' rights under Sabine Pilot Service, Inc. v. Hauck, 687 S.W.2d 733 (Tex. 1985), as hereinafter more particularly alleged.

VI. FACTS

Defendant terminated/constructively discharged Plaintiff on or about April 26, 2019. On or about April 10, 2019 after a particular job in Bakersfield, California Plaintiff was asked to

transport some co-workers from California to Indiana in an unmarked company vehicle. Plaintiff is aware that Defendant CORNERSTONE has undocumented employees working for Defendant. Plaintiff explained to his supervisor JUAN GOMEZ that he was uncomfortable having to transport co-workers due to Border Patrol road blocks and check points. Plaintiff feared if he were to be pulled over and the co-workers not have the proper documentation to be working in the United States that Plaintiff would be charged with human trafficking and smuggling/harboring of persons. Plaintiff was terminated/constructive discharged for refusing to illegally transport undocumented workers for Defendant CORNERSTONE. Said acts would have violated Title 8 of the United States Code § 1324, an offense punishable of imprisonment not more than ten (10) years for each violation. Plaintiff was terminated for refusing to perform these illegal acts.

VII.

Plaintiff was an at-will employee. Plaintiff refused to perform illegal acts for Defendant. Plaintiff's refusal to commit these illegal acts was the sole reason for Plaintiff's termination/constructive discharge.

VIII. DAMAGES

By reason of the acts and conduct, as herein alleged, of the Defendants your Plaintiff has been damaged as follows:

1. All actual damages including mental anguish in the past and future;
2. Loss of earnings in the past;
3. Loss of earnings in the future;
4. Exemplary Damages;
5. Attorney's fees
6. Reinstatement.

IX.

Plaintiff would show that Defendant acted with malice. Specifically, Defendant had a specific intent to cause substantial injury to the Plaintiff when it terminated Plaintiff. Defendant's actions in discharging Plaintiff from its employ, was in willful disregard of the rights of Plaintiff for which Plaintiff is entitled to recover punitive damages. Pursuant to TRCV 47. Plaintiff requests monetary relief over \$1,000,000.00 and a demand for judgment for all the other relief to which the party deems himself entitled.

**X.
REQUESTS FOR DISCLOSURE**

Pursuant to Rule 194, Defendant are requested to disclose within the time period set forth in Tex. R. Civ. P. 194.3 the information or material described in Rule 194.2(a) - 194.2(l).

XI.

Plaintiff respectfully requests trial by jury of the issues in this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant for all relief requested, jointly and severally, for costs, pre-judgment and post judgment interest, punitive damages, reinstatement, and for such other relief, general and special, at law or in equity, to which Plaintiff is entitled.

Respectfully submitted,

SCHERR & LEGATE, PLLC.

Attorneys for Plaintiff

109 North Oregon, 12th Floor

El Paso, Texas 79901

(915) 544-0100

(915) 532-1759 (Facsimile)

omendez@scherrlegate.com

/s/Oscar Mendez Jr.

OSCAR MENDEZ JR.

State Bar No. 24058473

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: CORNERSTONE INDUSTRIES CORP., who may be served with process **BY SERVING THE SECRETARY OF STATE, AUSTIN, TEXAS, 1019 BRAZOS, TRAVIS COUNTY, TEXAS, 78701**, who shall then forward a copy of this petition upon **CORNERSTONE INDUSTRIES CORP.** by serving its President and or Vice President, or any authorized officer or agent therein at **8781 MOTORSPORTS WAY, BROWNSBURG, IN 46112** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's First Amended Petition Dated November 27, 2019** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 2nd day of December, 2019, by Attorney at Law, OSCAR MENDEZ, JR., 109 N. OREGON, 12TH FLOOR, EL PASO, TX 79901 in this case numbered **2019DCV2336** on the docket of said court, and styled:

**GERARDO GARCIA
VS.
CORNERSTONE INDUSTRIES CORP.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's First Amended Petition Dated November 27, 2019, First Request for Production of Documents and Things to Defendant, Plaintiff's First Set of Interrogatories to Defendant, and Jury Request** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 6th day of December, 2019.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas
Mercedes Olivas Deputy



Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

IN THE COUNTY COURT AT LAW, NO. 6
EL PASO COUNTY, TEXAS

CAUSE NO. 2019DCV2336

GERARDO GARCIA
VS
CORNERSTONE INDUSTRIES CORP

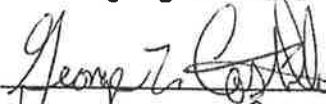
RETURN

Came to my hand: 12/09/2019, at 12:45 o'clock P.M., the following specified documents:

- Citation
- Plaintiff's First Amended Petition dated November 27, 2019
- Requests for Disclosure
- First Request for Production of Documents and Things to Defendant
- Plaintiff's First Set of Interrogatories to Defendant
- Jury Request

and executed by me on: 12/9/2019, at 3:20 o'clock P.M., at 1019 Brazos Street, Austin, Travis County, Texas, 78701, by delivering to CORNERSTONE INDUSTRIES CORP, by delivering to SECRETARY OF STATE OF TEXAS, by delivering to citations clerk having charge of Corporation Department/Statutory Documents Section of Secretary of State of Texas, MICHELLE ROBINSON, in person, true copies in duplicate of the above specified documents, together with Statutory Fee to the Secretary of State in the amount of \$55, having first endorsed on such copies the date of delivery.

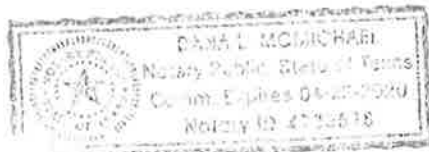
I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I declare under penalty of perjury that the foregoing is true and correct.


Authorized Person George L. Castilla, PSC 1440
Expiration Date: 9/30/2021
ASSURED CIVIL PROCESS AGENCY
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements and facts therein contained are within his/~~her~~ personal knowledge and experience to be true and correct. Given under my hand and seal of office on this 9th day of Dec, 2019.




Notary Public

**IN THE COUNTY COURT AT LAW NUMBER SIX
EL PASO COUNTY, TEXAS**

GERARDO GARCIA
Plaintiff,

§

Vs.

§

CAUSE NO. 2019DCV2336

CORNERSTONE INDUSTRIES CORP.
Defendant,

§

ORDER SETTING HEARING

It is hereby order that the Court has set a **STATUS/SCHEDULING CONFERENCE** in the above-entitled Cause number. ***February 13, 2020, AT 11:30 AM***, in the County Court at Law Number Six, Located at 500 E. San Antonio Rm. 1106, El Paso, Texas 79901.

FAILURE TO APPEAR SHALL RESULT IN A JUDGMENT OR DISMISSAL FOR WANT OF PROSECUTION ON YOUR CASE.

LOCAL COUNSEL APPEARING ON THIS CASE MUST FILE AN ENTRY OF APPEARANCE
FAILURE TO DO SO SHALL RESULT IN CANCELLATION OF HEARING.

IF YOU REQUIRE AN INTERPRETER YOU ARE RESPONSIBLE IN CONTRACTING A
FREELANCE CERTIFIED COURT INTERPRETER.

NO CHILDREN UNDER THE AGE OF 10 ALLOWED IN THE COURTROOM

Signed on this the 17th day of December, 2019



M. SUE KURITA, JUDGE
COUNTY COURT AT LAW NUMBER SIX

OSCAR MENDEZ, JR.

OMENDEZ@SCHERRLEGATE.COM